

REMARKS

Claims 1-21 are pending in this application. Claims 1-21 are rejected. Claims 1-21 remain in the case for reconsideration. Reconsideration is requested. No new subject matter has been added.

Claims Rejections - 35 USC 103

Claims 1-17 are rejected under 35 USC 103(a) as being unpatentable over "Applicant Admitted Prior Art" (AAPA) in view of Hinchley (US 6,490,250). The Examiner states in the previously received Advisory Action that the Applicant Admitted Prior Art (AAPA) and Hinchley do not suggest a motivation for combining and the rejection is not relying on AAPA and Hinchley. The Examiner states that the rejection is relying on the knowledge generally available to one of ordinary skill in the art and that Applicant acknowledges that it has been discovered that redundancy encoding maintains transmission of the data stream.

The rejection is respectfully traversed for the following reasons. First, combining the teachings of the prior art to produce the claimed invention absent some teaching, suggestion or incentive supported by the combination, cannot establish obviousness. ACS Hospital Sys., Inc. v. Montefiore Hospital, 221 USPQ 929, 933 (Fed. Cir. 1984).

Second, the combination of Hinchley and AAPA would not produce the claimed invention. Hinchley reduces the bit rate of different streams of data when the a current data rate is too large to ensure an optimum bit rate is continuously achieved by the system. Col. 2, lines 15-22; FIG. 10.

The present invention as specified in amended claim 1, encodes data to increase a rate that the frames can be transferred in relation to a detected monitored low bandwidth. This is shown in FIG. 5 where the data is transcoded between lines 542 and 544 when the available bandwidth of the system falls below a threshold value f_y . This transcoding allows the frames to be transferred at an increased rate 530 in relation to the available network bandwidth 150. Thus, the receiving buffer 364 does not empty out (packet jitter) when the network experiences low bandwidth conditions (wells A" and B").

Claims 3-9, 12, 13, 16, 17, 20 and 21 all refer to a second redundancy encoder that is activated when the available bandwidth falls below a second threshold. The explanation the Examiner gives for rejecting these claims is that the Applicant acknowledges that it has been discovered that redundancy encoding maintains transmission of a data stream. It has already been stated that Applicants discovered the idea of using redundancy in the encoded data when

the network bandwidth drops below a second threshold level. See Office Action response filed February 3, 2004, page 6. The Examiner cannot cite Applicant's own discovery as prior art. See 35 USC §102. The Examiner has not cited any prior art that suggests using a redundancy encoder with the transcoded data as specified in claims 3-9, 12, 13, 16, 17, 20 and 21.

Conclusion

For the foregoing reasons, reconsideration and allowance of claims 1-21 of the application as amended is solicited. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

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